



ENVIRONMENTAL PROTECTION AGENCY

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Final Guidance for Vessel Sewage No-Discharge Zone Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY:

The Environmental Protection Agency (EPA) is announcing the availability of the “Guidance for Vessel Sewage No-Discharge Zone Applications (Clean Water Act Section 312(f)).” State officials interested in developing vessel sewage no-discharge zone applications should consult the guidance to understand the information that must be submitted to EPA to meet the regulatory requirements and EPA’s process for evaluating applications. The guidance reflects EPA’s consideration of public comments received in response to the agency’s June 27, 2022 *Federal Register* publication. The contents of this guidance document do not have the force and effect of law and are not meant to bind the public. This document is intended to provide information to State officials regarding existing requirements under the law or agency policies.

FOR FURTHER INFORMATION CONTACT: Kelsey Watts-FitzGerald, Oceans, Wetlands, and Communities Division, Office of Water (4504T), Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460; telephone number: 202-566-0232; email address: watts-fitzgerald.kelsey@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The Clean Water Act (CWA) section 312 establishes the statutory framework through which EPA and the U.S. Coast Guard regulate the discharge of sewage from vessels with installed toilets operating in U.S. navigable waters. EPA is responsible for establishing national standards of performance for marine sanitation devices (MSDs) to prevent inadequately treated

sewage from polluting U.S. waters, while the U.S. Coast Guard is responsible for issuing regulations governing the design, construction, certification, installation, and operation of MSDs, consistent with EPA's standards. MSDs are equipment installed onboard vessels that either treat sewage prior to discharge or store sewage onboard for later disposal. If a State determines that some or all of the State's waters require greater protection, the CWA allows the State to apply to EPA for the establishment of a vessel sewage no-discharge zone. A vessel sewage no-discharge zone is an area where the discharge of both treated and untreated sewage from vessels is prohibited. There are three different types of vessel sewage no-discharge zones that may be designated under CWA section 312(f). For each type, the State must submit an application to EPA pursuant to the regulatory requirements detailed in 40 CFR 140.4.

In 1994, EPA published guidance, "Protecting Coastal Waters from Vessel and Marina Discharges: A Guide for State and Local Officials, Volume 1. Establishing No-Discharge Areas under § 312 of the Clean Water Act" (EPA 842-B-94-004, August 1994), to assist States in preparing applications based on the regulatory requirements. The "Guidance for Vessel Sewage No-Discharge Zone Applications (Clean Water Act Section 312(f))" supersedes the 1994 guidance.

II. Overview of the Guidance

The guidance provides background information on the environmental impacts of vessel sewage and the regulations in place to protect U.S. waters from this type of discharge. The guidance also explains and clarifies the information that EPA requires in an application and provides examples of the information that the State may choose to include to assist EPA in making an informed decision. The appendices contain sample applications, information on related programs, a walkthrough of the tool that supports EPA's analysis of costs for one of the three designation types, and strategies States may consider to encourage compliance with a no-discharge zone designation.

Key updates made to the guidance since the 1994 version include the addition of new

guidance and sample applications for the two CWA section 312(f)(4) designations, as well as updated introductory sections on the impact of sewage discharges and the regulatory framework in place to mitigate these impacts. The guidance also clarifies how to account for mobile pumpout facilities, such as boats and trucks, and provides additional information on how to demonstrate that sewage removed from vessels is being treated in conformance with Federal law. Finally, in the sections pertaining to CWA section 312(f)(3) applications, the guidance distinguishes between recreational and commercial vessels in acknowledgement of differing vessel profiles and pumpout facility needs.

Other updates were made to explain EPA's process for evaluating State applications. The most substantial update to EPA's review process is the inclusion of a new cost analysis for applications submitted under CWA section 312(f)(3). In addition to describing how EPA may conduct cost analyses for CWA section 312(f)(3) applications, the guidance is also accompanied by a spreadsheet-based tool, the "No-Discharge Zone Cost Analysis Tool," to help standardize the agency's approach to evaluating costs.

III. Public Comments Received

On June 27, 2022, EPA published a *Federal Register* notice (87 FR 38151) to solicit public comments on the draft guidance. EPA received 10 comments during the 60-day comment period. Commenters provided recommendations regarding the types of information identified as required versus optional for State applications and the inputs to the "No-Discharge Zone Cost Analysis Tool." Commenters also provided general feedback on the application process, including the timing and nature of communication between EPA, States, and stakeholders. A complete comment response document is available in EPA's docket.

IV. Conclusion

The "Guidance for Vessel Sewage No-Discharge Zone Applications (Clean Water Act Section 312(f))" and accompanying "No-Discharge Zone Cost Analysis Tool" are now available for use by State officials in the development of vessel sewage no-discharge zone applications.

They are available in the docket and on EPA's website at <https://www.epa.gov/vessels-marinas-and-ports/guidance-vessel-sewage-no-discharge-zone-applications>.

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